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the evidence of one who was neither an intimate friend nor an owner diverted part of a stream to his farm, aided in keeping open the channel, and made valuable improvements on his land, which would have been practically valueless without the water. All this was known and acquiesced in by the riparian owners for a period of eight years. At the end of that time they sought to enjoin a further diversion of the stream by the licensee. It was held that they were equitably estopped from denying him that privilege.

EVIDENCE.

Evidence—Res Gestæ.—*Ray v. Isbell*, 29 Atl. Rep. 538 (Conn.). In an issue as to whether all the repairs on a house were done for a certain price or only a part for such sum, testimony of an agent may be received as to what he formed an estimate of price upon, being a part of transaction and tending to show the subject matter of the contract.

Forgery—Indictment—Evidence.—*People v. Smith*, 37 Pac. Rep. 516 (Cal.). An indictment for forgery was composed of two counts, one of which was bad, and the evidence upon which conviction was obtained applied equally to both. The presumption that the verdict was rendered upon the good count accordingly did not prevail, and the error of the *nisi prius* court in ruling in the defective count was held sufficient ground for reversal of judgment on appeal.

Parol Evidence to Vary Contract.—*Cohen et al. v. Jackboice*, 59 N. W. Rep. 665 (Mich.). The defendant gave plaintiffs a written order to insert an advertisement for twelve months, payable quarterly, and after six months paid half the year's subscription and ordered the advertisement to be discontinued. The court held on appeal that as the order contained all the *indiciæ* of a contract, except that it was not executed by both parties, it was such a valid written agreement as could not be affected by parol contemporaneous evidence.

Cancellation of Deed—Mental Incompetency—Opinion Evidence.—*Holland v. Zollner*, 36 Pac. Rep. 930 (Cal.). Where a question calls for a fact observed and not an opinion as to another's mental capacity it may be received in evidence. To say that a man acts rationally or irrationally is but to describe an outward manifestation drawn from observed facts. In this case it was decided that